

FRED UPTON, MICHIGAN  
CHAIRMAN

HENRY A. WAXMAN, CALIFORNIA  
RANKING MEMBER

ONE HUNDRED TWELFTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 226-2827  
Minority (202) 226-3841

October 9, 2012

The Honorable Julius Genachowski  
Chairman  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

The Honorable Lawrence Strickling  
Assistant Secretary for Communications and Information  
U.S. Department of Commerce  
1401 Constitution Ave., N.W.  
Washington, D.C. 20230

Dear Chairman Genachowski and Assistant Secretary Strickling:

We are troubled by reports that the Federal Communications Commission (FCC) and National Telecommunications and Information Administration (NTIA) spent more than \$1 million in taxpayer "stimulus" dollars on broadband speed tests that produced no American jobs and merely reaffirmed what we already knew: the billions in private capital that broadband providers have invested to reach 95 percent of the country is delivering rapidly accelerating service. Now the FCC plans to expand this speed-test program to mobile broadband services. We are skeptical such testing is any more necessary or will be any more useful.

The American Recovery and Reinvestment Act (Act) was supposed to go to shovel ready projects and create jobs. And the \$4.7 billion in funding from that Act earmarked for the Broadband Technology Opportunities Program was supposed to expand broadband access. Yet, oversight hearings in the Communications and Technology Subcommittee have indicated that much of the money has been misdirected or remains unspent. Indeed, a recent GAO report has found that two years into the program, when projects are supposed to be substantially complete, only half of the money has even been disbursed. That report also questions the reliability of claims about the number of broadband subscribers and jobs created.

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Letter to the Honorable Julius Genachowski and The Honorable Lawrence Strickling  
Page 2

The \$1 million spent on speed tests is perhaps emblematic. That stimulus funding, meant to help here at home, was sent abroad to U.K. company SamKnows and - according to the Recovery.Gov website - created no jobs. What was the rationale for sending Americans' hard earned money overseas for a project that didn't put any Americans to work, especially in the current fiscal climate?

Assertions that the study was necessary as a matter of broadband policy are dubious. Such speed information is already available from a number of sources without expenditure of additional taxpayer dollars. And the SamKnows test results simply showed that even at times of peak demand, DSL, cable, and fiber-to-the-home download speeds were 82, 93, and 114 percent of advertised speeds, respectively, according to the FCC's 2011 report. The numbers were even better by 2012, with DSL, cable, and fiber-to-the-home download speeds of 84, 99, and 117 percent of advertised speeds. Those results far exceed U.K. providers' 57 percent, as reported by the study that gave the FCC the idea for this project in the first place.

Evidence also refutes the argument that the testing spurred broadband deployment and investment. Broadband was already available - despite ongoing FCC efforts to conflate deployment with adoption - to 95 percent of the country by 2009, according to the National Broadband Plan, up from 15 percent in 2003. If we include wireless providers, which continue to deploy 4G services across the country to supplement existing 3G broadband offerings, nearly every American is covered by a broadband network. Wired and wireless broadband providers have invested an average of nearly \$85 billion in infrastructure improvements over the past five years. In a recent speech, Chairman Genachowski observed that the percentage of U.S. homes passed by wired broadband networks capable of 100 megabits per second grew from 20 percent in 2009 to 80 percent today. Average speeds also continue to increase across all broadband platforms as new technologies are deployed throughout the country. Chairman Genachowski cited Akamai data in the same speech indicating that average speeds are up by almost 30 percent from just 2011 to 2012. Whether it is copper, satellite, cable, fiber, or wireless, average speeds have been on a steady increase for years. Thus, neither investment nor speed was lacking. Neither speed tests conducted in 2011, broadband grants from 2010 (unfinished or otherwise), nor other regulatory activity in the last four years could possibly be responsible for these results, which instead resulted from years of work by the private sector.

If these data, including the speed tests, prove anything, it is that the FCC's recent conclusion that broadband capability is not being deployed in a reasonable and timely fashion is not supported by the facts.

Now, the FCC apparently intends to expand its speed testing to wireless services. What reason do we have to believe this endeavor will be any more valuable? If anything, it will likely be even less meaningful in light of technical challenges. A myriad of factors, including intervening foliage, affects wireless performance in a given instance. Moreover, whereas the vagaries of a specific customer's home network and computer performance can be removed from the wireline equation by placing testing equipment between the provider and the home, wireless

Letter to the Honorable Julius Genachowski and The Honorable Lawrence Strickling  
Page 3

devices are part of the network itself. Wireless networks work cooperatively with mobile devices to change the power levels of the mobile devices and to adapt to the constantly changing spectrum environment. Given these variables, the data speeds a device achieves can vary from day-to-day, or even minute-to-minute. In fact, two wireless consumers standing next to each other, on the same network, with the same device, can achieve different speeds based on a host of additional factors.

While we lament that the Commission and NTIA have already spent \$1 million of ARRA funds abroad in an effort that created no jobs and little else, we urge you not to compound this mistake by expanding the scope of the program.

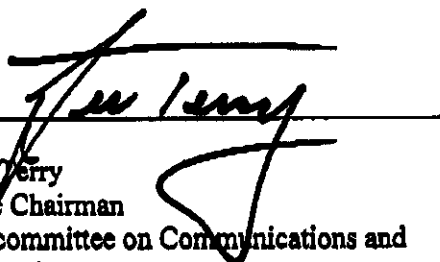
Sincerely,



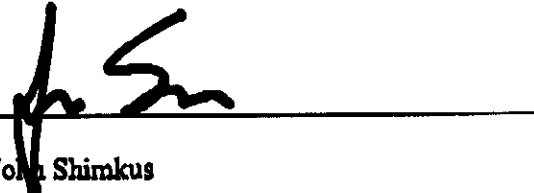
Fred Upton  
Chairman



Greg Walden  
Chairman  
Subcommittee on Communications and Technology



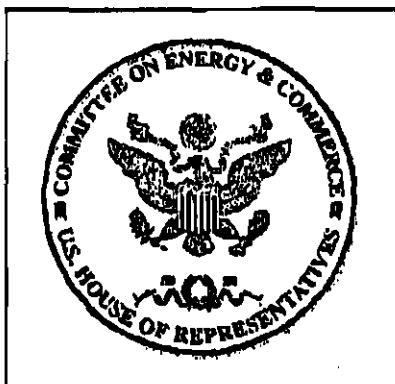
Lee Terry  
Vice Chairman  
Subcommittee on Communications and Technology



John Shimkus

cc: The Honorable Henry A. Waxman, Ranking Member

The Honorable Anna Eshoo, Ranking Member  
Subcommittee on Communications and Technology



***Committee on Energy and Commerce***  
**U.S. House of Representatives**  
**2125 Rayburn House Office Building**  
**Washington, D.C. 20515**  
**Phone: (202) 225-2927**  
**Fax: (202) 225-1919**

**To:** Ms. Terri Glaze, Director of Legislative Affairs, Federal Communications Commission for  
Chairman Julius Genachowski, Federal Communications Commission

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**From:** Rep. Fred Upton, Chairman, Committee on Energy and Commerce  
Rep. Greg Walden; Chairman, Subcommittee on Communications and Technology  
Rep. Lee Terry; Vice Chairman, Subcommittee on Communications and Technology  
Rep. John Shimkus; Committee on Energy and Commerce

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**Fax:** (202) 418-2808

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**Date:** October 9, 2012

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**Phone:**

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**Pages:** 4 (including cover)

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**Notes:**

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## FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI  
CHAIRMAN

February 14, 2013

The Honorable Fred Upton  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Upton:

Thank you for your letter concerning our Measuring Broadband America (MBA) program. I appreciate the opportunity to address the points you raise. For over two years, almost all major residential broadband providers have chosen to participate in this voluntary program. Through an innovative collaboration between the FCC, industry, and other stakeholders, the program has delivered a comprehensive and rigorous assessment of broadband performance in the United States. The MBA program has been commended by a broad range of voices.

Prior to the MBA program, there were reports of significant gaps between advertised and delivered broadband speeds. In our first report, one large ISP delivered only about 50% of its advertised performance during peak periods. The second MBA report showed that the same ISP had improved to deliver more than 100% of advertised speeds to its customers.

Our most recent report, the third in this series, contains three major findings. First, most broadband providers today closely meet or exceed the speeds they advertise. On average, ISPs delivered 97 percent of advertised speeds during peak periods. One provider in particular improved performance by 13 percent, but other providers still only deliver about 80% of advertised speeds during peak periods. Second, consumers are continuing to upgrade to faster broadband service: nearly half of those consumers who subscribed to speeds of less than 1 Mbps six months ago have now adopted higher speeds. Finally, satellite broadband technology has made significant improvements over the past year, and today delivers speeds well above advertised rates.

SamKnows, our vendor for this project, was selected through an open, competitive bidding process in which the FCC was prohibited by law from discriminating against non-U.S.-based companies. SamKnows submitted the lowest bid, saving taxpayer money, and was uniquely qualified, having successfully conducted a similar groundbreaking testing program in the U.K. As the most recent submission to the Recovery Act Board confirms, a majority of the

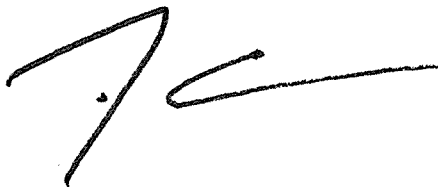
funds allocated to this project were used to purchase goods and services in the United States, and thereby created jobs in the United States:

SamKnows has a policy of using primarily US suppliers for the delivery of this project, to maximize the effectiveness of the stimulus funds. In this phase of the project SamKnows appointed the following suppliers: NETGEAR, DCL Inc., Hansa GCR, Hostway, FedEx and Calpont. Budget allocated to these suppliers was the equivalent of over 80% of the total budget. SamKnows therefore ensured that the majority of budget was allocated to American companies based in the USA. This created jobs in the US in this period.

Finally, the upcoming addition of mobile broadband testing to this program is being achieved by leveraging our existing infrastructure at no additional cost to taxpayers. We look forward to sharing the results of that report with you when it is complete.

Sincerely,

Julius Genachowski

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## FEDERAL COMMUNICATIONS COMMISSION

February 14, 2013

JULIUS GENACHOWSKI  
CHAIRMAN

The Honorable Greg Walden  
Chairman  
Subcommittee on Communications and Technology  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Walden:

Thank you for your letter concerning our Measuring Broadband America (MBA) program. I appreciate the opportunity to address the points you raise. For over two years, almost all major residential broadband providers have chosen to participate in this voluntary program. Through an innovative collaboration between the FCC, industry, and other stakeholders, the program has delivered a comprehensive and rigorous assessment of broadband performance in the United States. The MBA program has been commended by a broad range of voices.

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## FEDERAL COMMUNICATIONS COMMISSION

JULIUS GENACHOWSKI  
CHAIRMAN

February 14, 2013

The Honorable John M. Shimkus  
U.S. House of Representatives  
2452 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Shimkus:

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JULIUS GENACHOWSKI  
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February 14, 2013

The Honorable Lee Terry  
U.S. House of Representatives  
2331 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Terry:

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